

**CITY OF FREDERICK
ZONING BOARD OF APPEALS
MEETING MINUTES
September 23, 2014**

MEMBERS PRESENT:	MEMBERS ABSENT:	STAFF PRESENT:
Mr. Racheff Ms. Colby Mr. Patchan Mr. Butcher Mr. Kennedy Dr. Ying		Gabrielle Dunn, Division Manager of Current Planning Rachel Depo, Assistant City Attorney Jeff Love, City Planner Lea Ortiz, Office Manager

ANNOUNCEMENTS

For the benefit of the audience and especially the applicants, Mr. Racheff, Chairman, explained the Zoning Board of Appeals process and introduced staff by name.

APPROVAL OF MINUTES:

July 22, 2014 ZBA Minutes

MOTION: Ms. Colby moved to approve the July 22, 2014 hearing minutes as published.
SECOND: Mr. Butcher
VOTE: 5-0

GENERAL PUBLIC COMMENT

There were no general comments.

CASES TO BE HEARD

OLD BUSINESS

There was no old business.

NEW BUSINESS

CASE NO.: ZBA 14-580V, Variance, Frederick Community College
LOCATION: 7932 Opossumtown Pike
APPLICANT: Frederick Community College

Mr. Love entered the entire staff report into the record. There was no public comment.

MOTION: Mr. Butcher moved to approve a variance to Section 864e to allow for two freestanding signs under the powers granted to the Board by Section 203 of the Land Management Code finding the following:

1. The variance is not contrary to the public interest in that the placement of an additional freestanding sign on the Property is intended to provide adequate identification of vehicular access points and does not contribute to clutter.
2. The length of the singular road frontage upon which the Property fronts and the corresponding distance between access points to the site creates a situation whereby the strict application of the regulations results in a hardship to the property owner.
3. The requested variance for one additional freestanding sign is the minimum necessary to allow for adequate and visible signage.
4. That the literal interpretation of the LMC would prohibit signage that is consistent with other properties in the district. The Applicant is seeking equal measures to provide adequate and visible signage on the Property.
5. Granting a variance will not confer on the Applicant any special privileges that are denied by the LMC to other lands or structures in the same district due to the inability to adequately provide signage to identify the locations of access points with such distance between them.
6. That the granting of the variance will be in harmony with the general purpose and intent of the LMC by allowing the property owner the reasonable allocation and display of signage.
7. That the Applicant has not created the situation which necessitates the variance.

SECONDED: Mr. Patchan

VOTE: 5-0. Mr. Racheff recused himself.

MOTION: Mr. Patchan moved to approve a variance to Section 864(g), Table 864-1 finding the following:

1. Allow a total of 64 sf on the lot.
2. This variance is not contrary to the public interest and that the placement of an additional free standing sign and encompassing 32 sf on the property is intended to provide adequate identification of vehicular access points and does not contribute to clutter.
3. The length of the singular road frontage upon which the Property fronts and the corresponding distance between the access points to the site creates a situation whereby the strict application of the regulations regarding total square footage of signage on the property would create a hardship to the property owner.
4. That the granting of the variance will be in harmony with the general purpose and intent of the LMC by allowing the property owner the reasonable allocation and display of the signage.
5. The requested variance for the square footage is the minimum necessary allow for adequate and visible signage.
6. That the literal interpretation of the LMC would prohibit signage that is consistent with other properties in the district as displayed by the Applicant. The Applicant is seeking equal measures to provide adequate and visible signage on this Property.
7. Granting a variance will not confer on the Applicant any special privileges that are denied by the LMC to other lands or structures in the same district due to the inability to adequately provide signage to identify the locations of access points with such distance between them.

SECONDED: Dr. Ying

VOTE: 5-0. Mr. Racheff recused himself.

MOTION: Ms. Colby moved to deny a variance to the maximum height of the freestanding sign height of 6' to 9-1/2' finding that:

1. The Applicant failed the test whereby reason of exceptional narrowness, shallowness, shape or topographical conditions to increase the height as there is no peculiar or unusual practical difficulties to the location of the signs.
2. The variance request is not the minimum reasonably necessary to overcome any conditions that could applicable to the property.

SECONDED: Mr. Butcher

VOTE: 4-1. Mr. Racheff recused himself.

MOTION: Ms. Colby moved to deny a variance to the maximum size for freestanding sign of 32 sf finding that:

1. There is no exceptional narrowness, shallowness, shape, topographical conditions to justify that a larger sign would be needed and that the 32 sq. ft. is reasonably necessary.

SECONDED: Mr. Butcher

VOTE: 4-1. Mr. Racheff recused himself.

MOTION: Mr. Patchan moved to deny the variance to the maximum allowable changeable copy signage from 12 sf to 54.7 sf per sign finding that:

1. In accordance with the outline stated by staff for the denial of the recommended variance.

SECONDED: Mr. Butcher

VOTE: 4-1. Mr. Racheff recused himself.

Mr. Patchan moved to take a 5 minute recess. Mr. Butcher seconded the motion with a 5-0 vote.

CASE NO.: ZBA 14-170A, Appeal, Crumland Mixed Use Master Plan
LOCATION: 9600 Blackwell Road
APPLICANT: Crumland Farm Land Development, LLC

This case is an appeal by LaRue Kelbaugh, et.al ("Appellants") from the February 10, 2014 decision of the Planning Commission to approve the Crumland Mixed Use Master Plan (PC 13-279MU). The hearing for this case was conducted in accordance with the ZBA's "Special Rules of Procedure for Appeals from Decisions of Planning Commission".

Attorneys for the Appellants and the Respondents (Crum Farm Land Development, LLC and Crum Farm Commercial Development, LLC, as well as the Planning Commission) each presented oral argument. The ZBA members asked questions during oral argument and subsequently deliberated the merits of the case. At the conclusion of the hearing, the ZBA members had reached a consensus that the decision of the Planning Commission should be affirmed. A final written opinion will be prepared and is expected to be voted on at the October 28, 2014 ZBA meeting.

Mr. Racheff explained that a Findings of Fact would be typed up and be voted on at the October 28, 2014 ZBA hearing.

The meeting adjourned at 11:06 p.m.

Respectfully submitted,

Lea M. Ortiz